



July 30, 2021

Jay Withrow
600 E. Main Street
Suite 207
Richmond, 23219

Via email:

Re: Proposed changes to Permanent Standard regarding COVID-19 Mitigation

Dear Mr. Withrow:

I am writing you today on behalf of the Virginia Agribusiness Council to provide comments regarding the proposed changes to the Permanent Standard for COVID-19 mitigation.

While we acknowledge the proposed revisions bring Virginia more closely aligned with the recommended guidance from the CDC, we still believe a static, one-size fits all standard does not offer the flexibility of changing to the existing science of the pandemic. We further believe the regulation is not necessary and puts our members in an impossible compliance position as conditions continue to change.

However, if the Board moves forward with the proposed revisions, we ask that the Board remove the qualifier “equivalent or greater than” located in Section 10.E. Council members were put in an impossible compliance situation this Spring in which the CDC changed its recommendation regarding vaccinated individuals. The Governor’s announcement of a changed Executive Order and a static Permanent Standard created an incredibly confusing regulatory structure. Should a similar situation arise in the future, the regulation must be as clear as possible that if our members are following the most up to date science as stated by the CDC, they are in compliance with the standard. Removing the qualifying language would remove this confusion and create an easier standard with which to comply.

A further suggested edit by the Council would be to strike Section F.4 from the 16VAC25-220-40, the requirements for mandatory for all employers. Section F.5 requires employers to provide Personal Protective Equipment up to the standards of their industry for unvaccinated employees traveling in the same vehicle, which is the standard currently. However, F.4 requires employees traveling in the same vehicle to a higher standard, such as N95 respirators. The inclusion of both sections is confusing and could lead employers to be required to provide expensive and unnecessary protection. Multiple employees riding in a vehicle should be subject to the PPE requirements of that given field. Section F.4 is unnecessary and should be removed.

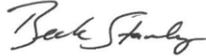
We applaud the administration for removing the risk assessments for each employee and job status. However, the Council is concerned changing the former “medium” section of the Permanent Standard to “higher risk employer” will lead to confusion. We understand that terminology is referenced in the federal employer guidance issued by OSHA. However, given Virginia’s Emergency Temporary Standard and Permanent Standard, Virginia’s employers are already used to the terminology of “low”, “medium”, “high” and “very high” risk categories. The section could lead to employer confusion, especially small businesses that do not have regulatory compliance officers, and mistakenly believe they do not need to comply. We

recommend changing the section to “unavoidable areas of employment with prolonged close contact.”

The industry has already invested millions of dollars and implemented unprecedented safety measures to protect their workforce and maintain the food supply. More importantly, our members have been robust in their support for vaccinations. We continue to believe that further vaccinations efforts will continue to change the science behind mitigation of COVID-19. It is therefore imperative that our industry has a regulatory structure able to adapt to the changing science.

As always, we are grateful for this opportunity to comment and would be happy to answer any questions the Department has.

Sincerely,

A handwritten signature in cursive script that reads "Beck Stanley".

Beck Stanley
Director of Government Affairs
Virginia Agribusiness Council